

State Court of Fulton County

FILED

File & ServeXpress

Transaction ID: 54291824

Date: Sep 26 2013 03:38PM

Cicely Barber, Clerk

Civil Division

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

ANDRE HEYWARD, Individually, and)
ROGER A. KIRSCHENBAUM, as)
Administrator of the Estate of MICHELLE)
KAMIKA CHINNIS, deceased,)

Plaintiffs,)

v.)

ABCO TRANSPORTATION, INC.,)
AMERICAN TRANSPORTATION)
SERVICES, LLC, R & L TRANSFER,)
INC., R & L CARRIERS SHARED)
SERVICES, INC., ROBERT J. SANSOM,)
and PROTECTIVE INSURANCE)
COMPANY,)

Defendants.)

CIVIL ACTION FILE

NO. _____

COMPLAINT

COME NOW Plaintiffs in the above-styled action and hereby file their Complaint
as follows:

1.

On or about July 11, 2012, Michelle Kamika Chinnis died, survived by her lawful
spouse, Andre Heyward, and their minor child, Dreyana Heyward.

2.

Roger Kirschenbaum is the duly-appointed Administrator of the Estate of
Michelle Kamika Chinnis by virtue of the Order of the Probate Court of Cobb County,
attached hereto as Exhibit "A."



3.

Plaintiff Andre Heyward, individually, and Plaintiff Roger Kirschenbaum, as the Administrator of the Estate of Michelle Kamika Chinnis, deceased, state their intention to bring each and every claim permissible under Georgia Law for all Plaintiffs and claims, including Andre Heyward, his minor child, and the Estate, and seek all special damages, economic losses, medical expenses, funeral and burial expenses, necessary expenses, pain and suffering, and all compensatory, special, actual, and general damages permissible under Georgia law.

4.

ABCO Transportation, Inc. (hereinafter referred to as “Defendant(s)” or “ABCO”) is a Florida corporation and may be served through its registered agent, CT Corporation System, 1200 South Pine Island Road, Plantation, Florida 33324.

5.

Jurisdiction and venue are proper as to Defendant ABCO.

6.

Defendant ABCO has been properly served with process in this action.

7.

Defendant American Transportation Services, LLC (hereinafter referred to as “Defendant(s)” or “American”) is a Georgia corporation and may be served via their registered agent, CT Corporation, 1201 Peachtree Street, N.E., Atlanta, Georgia 30361.

8.

Jurisdiction and venue are proper as to Defendant American.

9.

Defendant American has been properly served with process in this action.

10.

Defendant R & L Transfer, Inc. (hereinafter referred to as “Defendant(s)” or “R & L Transfer”) is an Ohio corporation and may be served through its registered agent, Ralph L. Roberts, Sr., 600 Gillam Road, Wilmington, Ohio 45177.

11.

Jurisdiction and venue are proper as to Defendant R & L Transfer.

12.

Defendant R & L Transfer has been properly served with process in this action.

13.

Defendant R & L Carriers Shared Services, LLC (hereinafter referred to as “Defendant(s)” or “R & L Carriers”) is an Ohio corporation authorized to transact business in Georgia and may be served through its registered agent, CT Corporation System, 1201 Peachtree Street, N.E., Atlanta, Georgia 30361.

14.

Jurisdiction and venue are proper as to Defendant R & L Carriers.

15.

Defendant R & L Carriers has been properly served with process in this action.

16.

Defendant Robert J. Sansom (hereinafter referred to as “Defendant” or “Sansom”) is a resident of the State of Colorado and may be served at his personal residence located at 154 Rabbit Creek Dr., Florissant, Colorado 80816.

17.

Jurisdiction and venue are proper as to Defendant Sansom.

18.

Defendant Sansom has been properly served with process in this action.

19.

At the time of the subject collision, Protective Insurance Company (hereinafter referred to as “Defendant(s)” or “Protective”) provided a policy of liability insurance on behalf of Defendants, motor common carriers for hire, and Robert Sansom, the same being policy of insurance number X-1845. Said policy was in effect on July 11, 2012, and provides coverage for the subject incident. Defendant Protective is an Indiana corporation authorized to transact business in the State of Georgia and is subject to suit by direct action pursuant to the provisions of O.C.G.A. § 40-2-140. Service may be made upon Defendant Protective’s registered agent, Linda Banks, 2180 Satellite Boulevard, Suite 400, Duluth, Georgia 30097.

20.

Jurisdiction and venue are proper as to Defendant Protective.

21.

Defendant Protective has been properly served with process in this action.

22.

On or about July 11, 2012, Michelle Chinnis and passenger Tracey Downer were heading west on Interstate West Parkway at its intersection with Ga. Hwy 6 in Douglas County, Georgia. Michelle Chinnis was stopped at a stop light at the intersection, and after the light for her lane turned green, she proceeded through the traffic light.

23.

At or about that same time, Defendant Sansom was driving Defendants' tractor trailer and travelling north on Ga. Hwy 6. Defendant Sansom negligently ran through the red light at the intersection and crashed into the driver's side of Michelle Chinnis' car. The impact crushed the driver's side door and sent Michelle Chinnis's vehicle careening into the southbound lane of travel and into a car stopped at the red light heading south on Ga. Hwy 6, causing multiple other impacts. Michelle Chinnis and her passenger Tracey Downer had to be extricated from the car by the fire department. As a direct and proximate result of Defendants' negligence, Michelle Chinnis sustained catastrophic injuries, conscious pain and suffering, and ultimately died. After the collision and prior to her death, Michelle Chinnis was aware of her impending death and suffered conscious pain and suffering.

24.

At all times mentioned herein, Michelle Chinnis acted with reasonable care under the conditions and circumstances then existing, and was completely free of any negligence in the collision at issue.

25.

Defendant Sansom's negligence included, but is not limited to, one or more of the following: negligently failing to obey a traffic control device (O.C.G.A. § 40-6-20), negligently causing the death of another person (O.C.G.A. § 40-6-393), negligently driving in the left hand lane (O.C.G.A. § 40-6-52), negligently travelling at an excessive speed under the circumstances (O.C.G.A. § 40-6-180), failing to exercise due care (O.C.G.A. § 40-6-241), negligently failing to keep a proper lookout, negligently failing to maintain the vehicle under proper control, negligently failing to use or sound a signal or warning, and any other acts of negligence that may be proven at trial.

26.

On July 7, 2012, Defendant Sansom was an employee and agent acting within the course and scope of his employment at all times for Defendants. All Defendants are jointly and severally liable and Defendants are liable for the actions of Defendant Sansom under theories of *Respondeat Superior*, vicarious liability, and agency principles.

27.

Defendant Sansom failed to operate the truck with the due care exercised by individuals in like or similar circumstances and operated the vehicle in a manner showing a disregard for the safety of others, including Michelle Chinnis.

28.

Defendant Sansom's actions constituted negligence in operating the vehicle contrary to the reasonable and safe conditions and circumstances then existing.

29.

Defendant Sansom's actions constituted negligence by engaging in a driving manner which was ill-timed and improper, causing danger, injuries, damages, losses, physical pain, emotional distress, and the death of Michelle Chinnis.

30.

Defendants were negligent in failing to adhere to routine and common industry standards regarding operation of the truck at issue, including negligently failing to take appropriate precautionary measures and procedures to prevent injuries to others, including Michelle Chinnis.

31.

Because Defendants had knowledge of, or in the exercise of reasonable care should have had knowledge of the negligence discussed herein and the dangerous condition(s) created by their actions, Defendants are liable for the negligent supervision, hiring, training, and retention of their management, agents and employees, to include but not limited to Defendant Sansom, and the entrustment of said truck to said management, agents and employees, to include but not limited to Defendant Sansom.

32.

Defendants were negligent in failing to promulgate and enforce company policies, procedures and rules for the protection of the public, including but not limited to Michelle Chinnis.

33.

Defendants failed to adhere to pertinent aspects of Georgia motor vehicle laws and regulations, Georgia motor common carrier regulations, and all applicable Federal motor carrier regulations.

34.

Defendants were and are negligent *per se*.

35.

Defendants were negligent for all other acts of negligence as may be shown at trial.

36.

The injuries and death sustained by Michelle Kamika Chinnis were the direct and proximate result of the negligence of the Defendants. But for said negligence, Michelle Kamika Chinnis would not have suffered injuries and died.

37.

As a proximate and foreseeable result of the negligence of Defendants, Michelle Kamika Chinnis sustained serious injuries, became aware of her impending death, endured pain and suffering, mental anguish, death, loss of the enjoyment of life, and suffered other damages as will be proven at trial and permitted under Georgia law. Plaintiff Andre Heyward, as the surviving spouse of Michelle Kamika Chinnis, is entitled to recover the full value of the life of Michelle Kamika Chinnis for her wrongful death, and all other elements of damages allowed under Georgia law. Plaintiffs state their

intention to seek all compensatory, special, economic, consequential, general, and all other damages permissible under Georgia Law, including, but not limited to:

- a) Personal injuries;
- b) Pain and suffering;
- c) Mental anguish;
- d) Loss of the enjoyment of life;
- e) Wrongful death;
- f) Funeral expenses;
- g) Incidental expenses;
- h) Past, present and future loss of earnings;
- i) Medical expenses;
- j) Consequential damages to be proven at trial; and
- k) All wrongful death and estate-based damages permitted under Georgia law.

38.

Plaintiff Roger Kirschenbaum, as the Administrator of the Estate of Michelle Kamika Chinnis, is entitled to recover for the injuries and conscious pain and suffering sustained by Michelle Kamika Chinnis prior to her death, any medical and funeral expenses, and all other elements of damages allowed under Georgia law. Plaintiffs state their intention to seek all compensatory, special, economic, consequential, general, and Estate damages, and all other damages permissible under Georgia Law.

39.

Each of the forgoing acts and omissions constitute an independent act of negligence on the part of Defendants and one or more or all above stated acts were the

proximate causes of the injuries to and death of Michelle Kamika Chinnis. Defendants are jointly and severally liable for the wrongful death of Michelle Kamika Chinnis and all damages recoverable under Georgia law.

40.

Plaintiffs are entitled to recover punitive damages from each of the Defendants because the actions of Defendants and their agents and employees showed an entire want of care which would raise the presumption of conscious indifference to consequences. Accordingly, Plaintiffs are entitled to recover punitive damages from each of the Defendants, in accordance with the enlightened conscience of an impartial jury.

41.

Defendants' actions evidence a species of bad faith, were and are stubbornly litigious, and have caused Plaintiffs undue expense. Thus, Plaintiffs are entitled to recover their necessary expenses of litigation, including an award of reasonable attorney's fees and expenses required by this action, pursuant to O.C.G.A. § 13-6-11, as well as any other statutory or common law basis.

WHEREFORE, the Plaintiffs pray for a judgment to be awarded to them and against the Defendants for the following:

- (a) Process issue as provided by law;
- (b) Plaintiffs be awarded actual damages in amounts to be shown at trial from the Defendants;
- (c) Plaintiffs be awarded all medical, doctor and funeral expenses in an amount to be proven through the evidence at the time of trial;

(d) Plaintiff Andre Heyward, as the surviving spouse of Michelle Kamika Chinnis, be awarded all damages for the wrongful death of Michelle Kamika Chinnis and all general, special, compensatory, economic and other allowable damages in accordance with the enlightened conscience of an impartial jury from the Defendants and as permitted under Georgia law;

(e) Plaintiff Roger Kirschenbaum, as Administrator of the Estate of Michelle Chinnis, recover any and all damages allowed by law, including for conscious pain and suffering, as well as all general, special, compensatory, and economic damages from Defendants, and punitive damages from Defendants, in accordance with the enlightened conscience of an impartial jury;

(f) Plaintiffs have a trial by jury; and

(g) Plaintiffs have such other relief as this Court deems just and proper.

TRIAL BY JURY IS HEREBY DEMANDED

This 26th day of September, 2013.

Respectfully submitted,

LAW & MORAN

/s/ Peter A. Law
Peter A. Law
Georgia Bar No. 439655
E. Michael Moran
Georgia Bar No. 521602
Attorneys for Plaintiffs

LAW & MORAN
563 Spring Street, NW
Atlanta, Georgia 30308
(404) 814-3700

State Court of Fulton County

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Date: Sep 26 2013 03:38PM

Cicely Barber, Clerk

Civil Division



Probate Court of Cobb County

IN THE PROBATE COURT
COUNTY OF **COBB**
STATE OF GEORGIA

IN RE: ESTATE OF

MICHELLE KAMIKA CHINNIS,
DECEASED

ESTATE NO. 12-1474

LETTERS OF ADMINISTRATION
(Bond, Inventory and Returns Required)

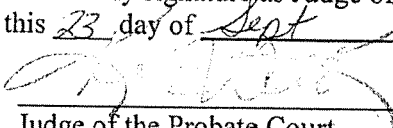
WHEREAS, MICHELLE KAMIKA CHINNIS, died intestate

(Initial one:)

X domiciled in this County;
___ not domiciled in this State, but owning property in this County;

and this Court granted an order appointing Roger A. Kirschenbaum, Esq. as Administrator of the estate of said decedent, on condition that said Administrator give bond and security and give oath as required by law; and the said Administrator having complied with said conditions; the Court hereby grants unto said Administrator full power to collect the assets of said decedent, and to pay the debts of said estate, so far as such assets will extend, according to law, and then to pay over the balance, if any, to the legal heirs of said decedent, and to do and perform all other duties as such Administrator, according to the laws of this State.

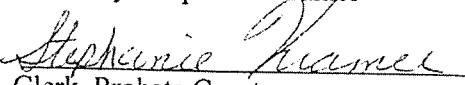
IN TESTIMONY WHEREOF, I have hereunto affixed my signature as Judge of the Probate Court of said County and the seal of this office this 23 day of Sept, 2013.



Judge of the Probate Court

NOTE: The following must be signed if the judge does not sign the original of this document:

Issued by: Stephanie Kramer



Clerk, Probate Court

(Seal)

PLAINTIFF'S
EXHIBIT

A

State Court of Fulton County

EFILED

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Gigely Barber, Clerk
Civil Division

PROTECTIVE INSURANCE COMPANY

1099 North Meridian Street, Indianapolis, Indiana 46204

Subject to the Terms and Conditions attached to and forming a part hereof, hereby agrees to indemnify

No. X-1845X-1774
Renewal of Number

DECLARATIONS

ITEM 1

(a) NAMED INSURED:

AMERICAN TRANSPORTATION SERVICES, LLC
(Also see Endt. No. 1 for **Related Insureds**)

(b) ADDRESS:

600 Gillam Road
Wilmington, OH 45177

ITEM 2

Contract Period:

June 16, 2011 to July 1, 2013,
12:01 A.M., Standard Time at the address
of the **Named Insured** as stated herein.

ITEM 3

Coverages Provided:

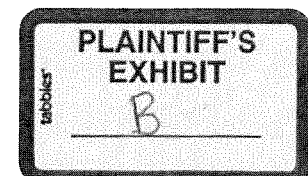
	Included	Not Included
Coverage A (Personal Injury Liability)	<u>X</u>	<u> </u>
Coverage B (Property Damage Liability)	<u>X</u>	<u> </u>
Coverage C (Uninsured & Underinsured Motorists)	<u>SEE ENDORSEMENT NO. 4</u>	<u> </u>
Coverage D (Personal Injury Protection)	<u>SEE ENDORSEMENT NO. 4</u>	<u> </u>
Coverage E (Cargo Legal Liability)	<u>X</u>	<u> </u>
Coverage F (Physical Damage-Comprehensive)	<u>X</u>	<u> </u>
Coverage G (Physical Damage-Collision)	<u>X</u>	<u> </u>
Coverage H (Workers' Compensation/ Occupational Disease where qualified as a self-insured)	<u> </u>	<u> </u>
Coverage I (Employers Liability)	<u>X</u>	<u>X</u>

ITEM 4

Limit of Indemnity:

\$3,000,000 combined single limit per **occurrence** less **self retention** for Coverages A, B, E, F, G, I, and Coverages C and D only if these coverages have not been waived or rejected by the **insured**; and if not waived or rejected, only to the limit selected by the **insured**, combined,

Subject to an aggregate limit of

\$2,900,000 as respects **general liability** and **employers liability** (as respects **occupational disease**) exposures.

GEORGIA, FULTON COUNTY

DO NOT WRITE IN THIS SPACE

STATE COURT OF FULTON COUNTY

Civil Division

CIVIL ACTION FILE NO. _____

*** NOTE-- DESIGNATED E-FILE CASE -- ANSWER AND ALL

PLEADINGS MUST BE E-FILED ***

CONTACT THE COURT AT 404.613.5040 AND

LEXISNEXIS CUSTOMER SUPPORT AT 1.888.529.7587

Andrew Heyward, Individually, and Roger A. Kirschenbaum,
as Administrator of the Estate of Michelle Kamika Chinnis,
deceased,

Plaintiff's Name, Address, City, State, Zip Code

vs.

ABCO Transportation, Inc. c/o CT Corporation System

1200 South Pine Island Road

Plantation, Florida 33324

Defendant's Name, Address, City, State, Zip Code

TYPE OF SUIT	AMOUNT OF SUIT
<input type="checkbox"/> ACCOUNT	PRINCIPAL \$ _____
<input type="checkbox"/> CONTRACT	
<input type="checkbox"/> NOTE	INTEREST \$ _____
<input checked="" type="checkbox"/> TORT	
<input type="checkbox"/> PERSONAL INJURY	ATTY. FEES \$ _____
<input type="checkbox"/> FOREIGN JUDGMENT	
<input type="checkbox"/> TROVER	COURT COST \$ _____
<input type="checkbox"/> SPECIAL LIEN	

<input checked="" type="checkbox"/> NEW FILING	
<input type="checkbox"/> RE-FILING: PREVIOUS CASE NO. _____	

SUMMONS

TO THE ABOVE NAMED-DEFENDANT:

You are hereby required to file with the Clerk of said court and to serve
a copy on the Plaintiff's Attorney, or on Plaintiff if no Attorney, to-wit:

Name: Peter A. Law, Law & Moran

Address: 563 Spring St., NW

City, State, Zip Code: Atlanta, Georgia 30308

Phone No.: 404-814-3700

An answer to the complaint which is herewith served on you, within thirty (30) days after service on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint, plus cost of this action. **DEFENSE MAY BE MADE & JURY TRIAL DEMANDED**, via electronic filing through Lexis Nexis or, if desired, at the e-filing public access terminal in the Clerk's Office at 185 Central Avenue, S.W., Room TG-100, Atlanta, Georgia 30303 or at the e-filing public access terminal at the Clerk's Office's North Annex at 7741 Roswell Road, Atlanta, Georgia 30350.

This _____

Angela Dash, Chief Deputy Clerk (electronic signature)

If the sum claimed in the suit, or value of the property sued for, is \$300.00 or more Principal, the defendant must admit or deny the paragraphs of plaintiff's petition by making written Answer. Such paragraphs undenied will be taken as true. If the plaintiff's petition is sworn to, or if suit is based on an unconditional contract in writing, then the defendant's answer must be sworn to.

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SERVICE INFORMATION:

Served, this _____ day of _____, 20_____.

DEPUTY MARSHAL, STATE COURT OF FULTON COUNTY

WRITE VERDICT HERE:

We, the jury, find for _____

This _____ day of _____, 20_____. _____ Foreperson

(STAPLE TO FRONT OF COMPLAINT)

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deceased,

Plaintiff's Name, Address, City, State, Zip Code

VS.

American Transportation Services, LLC c/o CT Corporation
1201 Peachtree Street, N.E.
Atlanta, Georgia 30361

Defendant's Name, Address, City, State, Zip Code

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Plaintiff's Name, Address, City, State, Zip Code

VS.

R & L Carriers Shared Services, LLC

c/o CT Corporation System, 1201 Peachtree Street, N.E.

Atlanta, Georgia 30361

Defendant's Name, Address, City, State, Zip Code

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Plaintiff's Name, Address, City, State, Zip Code

VS.

R & L Transfer, Inc. c/o Ralph L. Roberts

600 Gillam Road

Wilmington, Ohio 45177

Defendant's Name, Address, City, State, Zip Code

TYPE OF SUIT

AMOUNT OF SUIT

☐ ACCOUNT PRINCIPAL \$ _____
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Plaintiff's Name, Address, City, State, Zip Code

VS.

Robert J. Sansom
154 Rabbit Creek Dr.
Florissant, Colorado 80816

Defendant's Name, Address, City, State, Zip Code

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You are hereby required to file with the Clerk of said court and to serve
a copy on the Plaintiff's Attorney, or on Plaintiff if no Attorney, to-wit:Name: Peter A. Law, Law & MoranAddress: 563 Spring St., NWCity, State, Zip Code: Atlanta, Georgia 30308Phone No.: 404-814-3700

An answer to the complaint which is herewith served on you, within thirty (30) days after service on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint, plus cost of this action. **DEFENSE MAY BE MADE & JURY TRIAL DEMANDED**, via electronic filing through Lexis Nexis or, if desired, at the e-filing public access terminal in the Clerk's Office at 185 Central Avenue, S.W., Room TG-100, Atlanta, Georgia 30303 or at the e-filing public access terminal at the Clerk's Office's North Annex at 7741 Roswell Road, Atlanta, Georgia 30350.

This _____

Angela Dash, Chief Deputy Clerk (electronic signature)

If the sum claimed in the suit, or value of the property sued for, is \$300.00 or more Principal, the defendant must admit or deny the paragraphs of plaintiff's petition by making written Answer. Such paragraphs undenied will be taken as true. If the plaintiff's petition is sworn to, or if suit is based on an unconditional contract in writing, then the defendant's answer must be sworn to.

If the principal sum claimed in the suit, or value of the property sued for, is less than \$300.00, and is on a note, unconditional contract, account sworn to, or the petition sworn to, defense must be made by filing a sworn answer setting up the facts relied on as a defense.

SERVICE INFORMATION:

Served, this _____ day of _____, 20____.

DEPUTY MARSHAL, STATE COURT OF FULTON COUNTY

WRITE VERDICT HERE:

We, the jury, find for _____

This _____ day of _____, 20____. _____ Foreperson

(STAPLE TO FRONT OF COMPLAINT)

TYPE OF SUIT	AMOUNT OF SUIT
<input type="checkbox"/> ACCOUNT	PRINCIPAL \$ _____
<input type="checkbox"/> CONTRACT	
<input type="checkbox"/> NOTE	INTEREST \$ _____
<input checked="" type="checkbox"/> TORT	
<input type="checkbox"/> PERSONAL INJURY	ATTY. FEES \$ _____
<input type="checkbox"/> FOREIGN JUDGMENT	
<input type="checkbox"/> TROVER	COURT COST \$ _____
<input type="checkbox"/> SPECIAL LIEN	

<input checked="" type="checkbox"/> NEW FILING	
<input type="checkbox"/> RE-FILING: PREVIOUS CASE NO. _____	

GEORGIA, FULTON COUNTY

DO NOT WRITE IN THIS SPACE

STATE COURT OF FULTON COUNTY

Civil Division

CIVIL ACTION FILE NO. _____

*** NOTE-- DESIGNATED E-FILE CASE – ANSWER AND ALL
PLEADINGS MUST BE E-FILED ***

CONTACT THE COURT AT 404.613.5040 AND

LEXISNEXIS CUSTOMER SUPPORT AT 1.888.529.7587

Andrew Heyward, Individually, and Roger A. Kirschenbaum,as Administrator of the Estate of Michelle Kamika Chinnis,deceased,

Plaintiff's Name, Address, City, State, Zip Code

VS.

Protective Insurance Company c/o Linda Banks2180 Satellite Boulevard, Suite 400Duluth, Georgia 30097

Defendant's Name, Address, City, State, Zip Code

TYPE OF SUIT

AMOUNT OF SUIT

☐ ACCOUNT

PRINCIPAL \$ _____

☐ CONTRACT☐ NOTE

INTEREST \$ _____

☒ TORT☐ PERSONAL INJURY

ATTY. FEES \$ _____

☐ FOREIGN JUDGMENT☐ TROVER

COURT COST \$ _____

☐ SPECIAL LIEN

☒ NEW FILING☐ RE-FILING: PREVIOUS CASE NO. _____

SUMMONS

TO THE ABOVE NAMED-DEFENDANT:

You are hereby required to file with the Clerk of said court and to serve
a copy on the Plaintiff's Attorney, or on Plaintiff if no Attorney, to-wit:

Name: Peter A. Law, Law & MoranAddress: 563 Spring St., NWCity, State, Zip Code: Atlanta, Georgia 30308Phone No.: 404-814-3700

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SERVICE INFORMATION:

Served, this _____ day of _____, 20____.

DEPUTY MARSHAL, STATE COURT OF FULTON COUNTY

WRITE VERDICT HERE:

We, the jury, find for _____

This _____ day of _____, 20____. _____ Foreperson

(STAPLE TO FRONT OF COMPLAINT)